



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

DATE: 24 October 2005

TO: Sarah Light, US Attorney's Office  
Michael Mintzer, EPA-20RC

FROM: Dilshad J. Perera, OSC

SUBJECT: MVC Capital, Inc. and ICO Polymer Site Tour

I was contacted in the first week of October 2005 by Shivani Khurana, Vice President, MVC Capital, Inc. She stated that MVC Capital was an investment company working with ICO Polymer to finance a possible purchase of the Westwood Chemical facility by ICO Polymer. Ms Khurana asked if representatives of ICO Polymer and MVC Capital would be able to visit and tour the Westwood facility in connection with their possible interest in acquiring and financing the facility.

By way of background, ICO had first contacted me around late June or July 2005 and, at that time I referred them to Paul Banner, the bankruptcy trustee. ICO returned to the facility after reporting to me that they had spoken with Mr. Banner who referred them back to do a site visit. ICO returned once again to the facility in September 2005. At that time, the ICO representative said that ICO was a food additive company and was considering a purchase of the facility. ICO was interested in the equipment at the facility if the equipment were left in place since, as ICO said, the equipment would lose value if it were removed from the site and if it then had to be reconfigured and reinstalled elsewhere. The property was also of interest to ICO Polymer since the Westwood facility had already been approved by FDA, and ICO, as a food additive manufacturer, would need similar approvals for their business processes.

Following the contact by ICO in the first week of October 2005, I spoke with Michael Mintzer at EPA ORC. Mr. Mintzer reported that he and AUSA Sarah Light of the US Attorney's Office had contacted John Privitera, counsel to the trustee, who confirmed that ICO should be allowed a visit to the facility, and that representatives of the trustee did not want to attend. However, Mr. Privitera requested a short report from EPA following the site visit.

The following people were on site from approximately 08:15AM to 10:15AM on 12 October 2005:

Shivani Khurana, Vice President, MVC Capital, Inc (914) 251-1961  
Puneet, Sanan, MVC Capital, Inc. (914) 251-1854  
Unknown Person, MVC Capital, Inc.  
David Philips, Chief Executive Officer, ICO Polymers (617) 733-4264

MVC Capital, Inc.  
287 Bowman Avenue  
Purchase, NY 10577  
Fax: (914) 701-0315

I searched the web for info on this company: their URL is <http://www.mvccapital.com/>

ICO Polymers  
34 Constellation Wharf  
Boston, MA 02129  
FAX: (617) 241-7344

I searched the web for info on this company: their URL is <http://www.icopolymers.com/>

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The tour was given by myself and Dave Bofinger, Response Manager, Earth Tech (R2's ERRS Contractor). Just before doing the facility tour, I asked the MVC group what exactly their relationship was to ICO Polymers. Phillips said MVC are the money people and would be providing the finances if ICO Polymers were to purchase the Westwood property. The purpose of MVC's visit was to get a first hand look at their possible investment in financing an acquisition by ICO Polymers.

From 8:45AM to about 10:00AM. The four people were in my onsite office discussing EPA's role. The topics covered are as follows:

- At the onset, I briefly described the EPA removal program and its role and responsibility. As a rule, Region 2 gets referrals from the states when all other avenues are exhausted. EPA is not in the business of acquiring and selling property subsequent to a removal action. We will typically put a lien on the property like every one else that are owed money and upon sale of the property we will try to recoup our costs. Khurana asked if EPA would be ahead of everyone else that was owed moneys. I said I had no idea how the hierarchy works; it's a legal determination and is not relevant to my activities on site.
- MVC Capital, Inc (MVC) requested a history of the site. Khurana/Sanan said they have differing information from the press and the like. I told them the only history I had was from the time I got involved. I showed them the website <http://www.epaosc.net/westwood> and directed them to the PolRep section and the image section of the website. I told them that I did not know the entire background of Westwood, as that was not entirely pertinent to my actions on site.
- Khurana/Sanan asked how long more the EPA will be involved with the action. I told them that I'm projecting till early November. The one uncertainty is the level of contamination in the soil. I told them that I had sampled the stressed areas and the data is under review by ecologists and toxicologists. I also told them that even with the presence of contaminants in the soil; it does not mean that an EPA removal action would be warranted. I said I'm not qualified to make that call, hence the review by the EPA experts.
- Sanan asked if I will be spending the entire project ceiling; I said yes.
- Khurana/Sanan asked if other people had shown interest in the Westwood facility. I said I'm not privy to that type of information; it's not relevant to my activities. I said the only way I know that there is any interest is if I was requested to give a tour of the facility. I told them that the liquidator had gone through the site to verify the information in the valued inventory submitted in the bankruptcy filing. I also told them that some interested parties had verified the inventory at the request of the liquidator.
- Khurana/Sanan asked if Summit Research Labs has shown interest. I said they had been onsite several times. I told them EPA had called Summit via the yellow pages because a plant manager we interviewed suggested that Summit may be interested in acquiring some of the finished products and in-process material. I said EPA typically tries to submit for reuse chemicals it finds on site and only disposes of them as a final resort and, in this instance EPA was able to ship some material to Summit for Summit to rework and reuse, with the result that EPA disposal costs were reduced.
- Sanan asked how much we had given away in pounds. I told him I don't recall, but it should be in the Pollution Reports
- Khurana/Sanan asked about EPA's clean up of the tanks. I said EPA was disassembling and disposing of all poly and fiberglass tanks but that the steel tanks and dryers would be cleaned and left onsite as would the compressors, motors, etc... I told them that EPA decided to chop and dispose of the poly and fiberglass tanks since it would have been very costly to clean them properly. EPA believed that the cost of cleaning these tanks would exceed their value, especially in view of the fact that these tanks were old and appeared to be reaching the end of their life expectancy; that the tanks had to be cut, in any event, in order to remove the waste contents for disposal; that a number of the tanks were in poor condition and had leaked even while EPA was on-Site; and that the tanks in their current configuration would not likely be of use to a future user of the property unless that user was going to resume the manufacturing process in the exact same manner as Westwood.

- Khurana/Sanan asked if there had been any interest to purchase the property prior to the bankruptcy. I told them I had no idea what transpired prior to the bankruptcy, again it was not relevant to my activities. I told them I had heard there were negotiations between the bank and Westwood but that I had no knowledge of what transpired.
- Phillips asked if anyone offered to cleanup the property at their cost and acquire the property as a result. I told him that no one had made any such offers to EPA while I've been onsite.
- Khurana/Sanan asked about the water pipes. They had heard that there were pipe ruptures. Bofinger said yes. EPA only turned on the lines for our own use, but that it seemed that the remaining lines could be repaired if needed. I added that we had upgraded the water meter; the inspector advised us that the meter was undersized.
- Khurana/Sanan asked about the potential for the township allowing another chemical plant to operate at the Westwood site; they said they had seen in the press that Middletown officials are reluctant to allow another chemical manufacturing facility to occupy the Westwood facility. I said I had no idea of what Middletown officials had in mind for this property or if they would disapprove of an application by another chemical manufacturing entity.

From approximately 10:00AM to 10:15AM the six of us toured the site.

- We toured the entire interior building complex.
- We discussed damage caused by the leaking rooftop air-conditioning unit. I told them that EPA had serviced the air conditioner to the point it was functional for our needs, but did not plan to provide service or repairs beyond that. The service man told EPA that it appeared to him that servicing had not been performed for number of years.
- I pointed out all the lab and analytical equipment that will remain. I told them I could not vouch for their operability since we did not use any of the lab equipment except for the air-hoods.
- I showed them the LAN and telecommunications room. I pointed out that all the servers had been removed prior to our arrival.
- In the production area I showed them the compressors, the three stainless steel dryers, the R&D dryer, truck scales and silos.
- I pointed out the deteriorated roofing panels, and suggested that it appeared to be a quick fix.
- I pointed out the sections of corroded concrete floor. I said that EPA will clean the walls and floor prior to departure but that EPA did not plan to remove the floor to do any cleanup underneath it.
- In the exterior portion of the property I showed them the site of the new construction that had apparently been planned by Westwood as well as the areas of stressed vegetation that I had sampled and as to which I am awaiting analysis of the soil data by EPA scientists.
- I showed them the external reactor tanks which are in the process of being chopped up.
- I pointed out the new equipment staged in the front parking lot that was apparently intended for the proposed expansion.

After the walk through they asked my opinion of the value of the property and I said that I did not know.

Following this visit, I received a telephone call on October 19, 2005 from Puneet Sanan and Shivani Khurana of MVC Capital and the following items were discussed:

They asked if I anticipated that the Removal Action would still be completed in early to mid November. I said yes.

They asked questions relating to PolRep 9. They asked if the soil data was available to them. I said not just yet. I said it's under review by EPA scientist to determine if soil removal was warranted and that the data would not be made public until after the review and analysis was completed.

They asked about the cleaning of the dryers reported in PolRep 9. I said that although the typical approach would be to dismantle the equipment in order to clean it, EPA will not disassemble the steel tanks and dryers but, instead, will clean the exterior, interior and the duct work as much as possible without disassembly. Due to concerns previously communicated to EPA, we will not be dismantling the steel tanks and equipment since once dismantled, it may not be possible for EPA to put it back in working order. EPA

understands that this equipment is quite valuable and will be sold to a buyer who will need to complete cleanup based on the buyer's projected use. (Note that, on the other hand, EPA will disassemble and clean the motors and compressors associated with the fiberglass and poly tanks.)

They asked if I saw anything that may be of issue with the soil. I said that based upon my initial review, and comparing them to the NYSDEC recommended cleanup standards, I did not see any values that exceeded the guidance, but since I'm not an expert in the area of determining soil cleanup standards, I'm waiting on the EPA scientist to make the final determination; especially since there are areas of stressed vegetation.

They asked what the next step would be, and whether EPA would issue a no further action decision. I said that when EPA was finished, it would refer site back to New York State, with documentation on what actions took place and with analytical data.

They asked how long it would take if they were to clean up the soil in the nonvegetative areas. I said that would be a hard question for me to answer. If ICO/MVC were to take a pro-active stance on the soil contamination and not at the direction of either the State or EPA, then it all comes down to what level they wanted to go to but I told them that I've loaded out as much as 35 trucks each carrying 22 tons a day. I also added that if for any reason they choose to excavate (such as for expansion), that they would be probably want to take samples to ensure that the fill can accept the soil.

They again asked if there was any other interest in the property. Again I said that I did not know and that the trustee would be the one they should ask. I noted that the liquidator had walked the site which could indicate an interest in the Site or only that they wanted to verify information on assets listed in the bankruptcy proceeding. They asked if it would be appropriate to talk to the liquidator directly. I said they are better off going through the Trustee. *I didn't furnish them with liquidator's name and phone. I figured that's up to Paul Banner, the trustee.*